IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8833 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JOITARAM PATEL - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR TUSHAR MEHTA for Petitioner(s) : 1,
MR MR MENGDEY, AGP for Respondent(s) : 1 - 2.
(MR KS JHAVERI) for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 27/07/2006

ORAL JUDGMENT

1. The petition is preferred by the petitioner for challenging the notification of the State Government dated 02.05.2000, whereby the

objections were invited for bifurcation of the Agricultural Produce Market Committee, Dhanera into Agricultural Produce Market Committee, Dhanera and Agricultural Produce Market Committee, Dantiwada.

2. When the petition was considered for admission, it was inter alia observed by the Court (Coram:Pradip Kumar Sarkar, J.) at para 3 as under :

"3. On a plain reading of Section 5 of the Gujarat Agricultural Produce Markets Act, 1963, it appears that the Government is under an obligation to publish the Notification in the Official Gazette, giving atleast one month's time from the date of such publication of the Notification in the Official Gazette for submitting suggestions and objections by the general public likely to be affected by the division of Market Committee. Further, Section 5 of the said Act also requires publication of the Notification in a Gujarati news paper having circulation in the area. It is an admitted fact that the Notification was published in a local Gujarati daily on 20-5-2000. Now, it is to be considered, whether the law requires 30 days time from the date of publication of the Notification in the local daily. On a reading of the provisions of Section 5 of the said Act, I am of the view that, requirement of one month time is from the date of publication of the Notification in the Official Gazette, but not from the date of publication

in the local Gujarati daily. In my view, the purpose of publishing Notification in the Gujarati daily is to give information to the general public, who may not be aware about the publication of the Notification in the Official Gazette. In the instant case, the Notification was published in the local Gujarati daily Rakheval on 20-5-2000, and even from 20-5-2000, 20 days time were made available to the general public for submitting objections and suggestions. Having regard to this fact, I am of the view that sufficient time was given after publication in the local daily, and therefore nobody should have any grievance regarding the publication. However, Government counsel has argued that the petitioner in pursuance of the Notification has already submitted his objections and suggestions within time limit prescribed by the Notification dated 2-5-2000, therefore, atleast the petitioner cannot raise any grievance against the illegality or otherwise of the aforesaid Notification. There is sufficient force in the submission of learned Government counsel, because a person who has already filed his objections within time, in my view, atleast he should not be permitted to raise objections regarding the legality or otherwise of the Notification, as well as the publication of the Notification in the Gujarati local daily.

4. Learned counsel for the petitioner also submitted that, in view of the stay order passed by this Court on

7-1-2000 in Spl.C.A. No. 48 of 2000, the future of Dhanera taluka and Dantivada taluka is still uncertain. If the petitioner succeeds in the Spl.C.A. No. 48 of 2000, then Panthivada will remain a separate taluka and the villages within the Panthivada taluka will not merge in Dhanera or Dantivada talukas. Learned counsel accordingly submitted that, since the area of Dhanera and Dantivada is still uncertain, Government should not proceed with the bifurcation of Dhanera and Dantivada talukas. Prima facie I cannot agree with the submission of learned counsel for the petitioner, because, even if Dhanera and Dantivada talukas remain intact, then also there is no legal hurdle for constituting two or more Market Committees for one taluka. Moreover, if the petitioner fails in Spl.C.A. No. 48 of 2000, then the villages within Panthivada will merge in the talukas of Dhanera and Dantivada, and accordingly the Government can suitably modify the Notification regarding area of operation of the Market Committees. Learned counsel for the petitioner consequently submitted that, in view of the uncertainties of the two talukas, i.e. Dhanera and Dantivada, Government should not proceed with the bifurcation of Dhanera Market Committee. I have already observed that, even if petitioner succeeds in the Spl.C.A. No. 48 of 2000, then also the Market Committee proposed to be constituted by dividing Dhanera Market committee will continue as it is and in case the

petitioner fails in Spl.C.A. No. 48 of 2000, then the Government can amend the Notification specifying the areas that will be merged with Dhanera and Dantiwada talukas."

After observing the aforesaid, the Court declined the interim relief and the interim relief was revised.

3. When the matter is taken up for final hearing, the learned Counsel for the petitioner Mr. Mehta has declared before the Court that as per the order dated 20.10.2000 passed by this Court (Coram: M.S. Shah, J.) in Special Civil Application No. 48 of 2000, the petition has been dismissed and the ad interim relief granted was also vacated.

4. Mr. Mengdey, learned AGP also declared before the Court that as the interim stay was not granted by this Court pending the petition, the final notification is published for dividing the Market Committee into two Market Committees viz. Agricultural Produce Market Committee, Dhanera and Agricultural Produce Market Committee, Dantiwada and he further submitted that thereafter, the elections of newly constituted Market Committees have also taken place.

5. As such, the petition was for a contemplated action of the State Government for dividing the

Market Committee into two independent Market Committees and thereafter as the petition on the basis of which the contention was raised that there is no certainty of the division of the area, is also dismissed. Not only that, pending the petition, the Market Committee is divided into two Market Committees and as declared by the learned AGP, Mr. Mengey under the instructions of respondent No. 2, the elections have already taken place. Therefore, in view of such circumstances, no useful purpose would be served in deciding the question which are raised in this petition and it would only be a mere academic exercise. Apart from that, without hearing the newly constituted Market Committee or the newly elected representative of the Market Committee, even otherwise also, no effective relief can be granted.

6. In view of the above, the petition is disposed of as having become infructuous by afflux of time. Rule discharged.

(JAYANT PATEL, J.)

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